

MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1292

H.P. 987

House of Representatives, March 23, 1983

Submitted by the Department of Marine Resources pursuant to Joint Rule 24.

Referred to the Committee on Marine Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Crowley of Stockton Springs.

Cosponsors: Representative Vose of Eastport and Senator Minkowsky of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Clarify Certain Provisions of
the Marine Resources Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, ambiguities exist in the marine resources laws; and

Whereas, these ambiguities create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and confusion be resolved in order to prevent any injustice to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of

1 the Constitution of Maine and require the following
2 legislation as immediately necessary for the preservation of the public peace, health and safety; now,
3 therefore,
4

5 Be it enacted by the People of the State of Maine as
6 follows:

7 Sec. 1. 12 MRSA §6072, sub-§1, as enacted by PL
8 1977, c. 661, §5, is amended to read:

9 1. Authority. The commissioner may lease areas
10 in, on and under the coastal waters including the
11 public lands beneath those waters and portions of the
12 intertidal zone for scientific research or for
13 aquaculture of marine organisms. The commissioner may
14 grant a lease to any person. Except as provided in
15 this Part, the commissioner's power to lease lands
16 under this section shall be exclusive. For the purposes of this section, the deputy commissioner may
17 serve in the place of the commissioner.
18

19 Sec. 2. 12 MRSA §6072, sub-§2, ¶B, as amended by
20 PL 1981, c. 609, §1, is repealed and the following
21 enacted in its place:

22 B. A lease may be granted for tracts not to
23 exceed 5 acres in area. The commissioner may
24 grant contiguous lease tracts to a single appli-
25 cant; and

26 Sec. 3. 12 MRSA §6072, sub-§7, as enacted by PL
27 1977, c. 661, §5, is amended to read:

28 7. Decision. The commissioner may grant the
29 lease, ~~with the advice and consent of the advisory~~
30 ~~eeuneii;~~ if he is satisfied that the proposed project
31 will not unreasonably interfere with the ingress and
32 egress of riparian owners, navigation, fishing or
33 other uses of the area and is not in conflict with
34 applicable coastal zoning statutes or ordinances. The
35 commissioner may establish conditions that govern the
36 use of the leased area and the limitations on the
37 aquaculture activities. These conditions shall
38 encourage the greatest multiple, compatible uses of
39 the leased area, but shall also preserve the exclu-
40 sive rights of the lessee to the extent necessary to
41 carry out the lease purpose.

1 Sec. 4. 12 MRSA §6072, sub-§12-A, ¶B, as enacted
2 by PL 1981, c. 609, § 3, is amended to read:

3 B. The commissioner may grant lease transfers,
4 ~~with the advice and consent of the advisory coun-~~
5 ~~cil,~~ if he determines that:

6 (1) The change in lessee does not violate
7 any of the standards in subsection 7;

8 (2) The transfer is not intended to circum-
9 vent the intent of subsection 8; and

10 (3) The transfer is not for speculative
11 purposes.

12 Sec. 5. 12 MRSA §6501, sub-§3, ¶A, as enacted by
13 PL 1977, c. 661, §5, is amended to read:

14 A. Any person may fish for, take, possess or
15 transport any species of fish if they have been
16 taken by speargun, harpoon, minnow trap, hand dip
17 net or hook and line and are only for personal
18 use.

19 Sec. 6. 12 MRSA §6553, sub-§2, as enacted by PL
20 1977, c. 661, §5, is amended to read:

21 2. Method of taking. From July 16th to October
22 15th, both days inclusive, it shall be unlawful to
23 take Atlantic salmon from the coastal waters by means
24 other than hook and line with a pointed hook.

25 Sec. 7. 12 MRSA §6554, sub-§2, as enacted by PL
26 1977, c. 661, §5, is amended to read:

27 2. Method of taking. It shall be unlawful to
28 fish for or take coho salmon from the coastal waters
29 by any means other than hook and line with a single
30 pointed hook.

31 Sec. 8. 12 MRSA §6621, sub-§3, as repealed and
32 replaced by PL 1981, c. 462, §1, is amended to read:

33 3. Exception. This section shall not apply to:

34 A. The taking of shellfish under the authority
35 of section 6856; or

1 B. Shellfish kept or washed in waters sterilized
2 with a system that has been approved in writing
3 by the commissioner, provided that the waters are
4 also approved for that use, ~~or.~~

5 ~~C. The handling of shellfish that are not~~
6 ~~intended for imminent human consumption.~~

7 Emergency clause. In view of the emergency
8 cited in the preamble, this Act shall take effect
9 when approved.

10 STATEMENT OF FACT

11 Section 1 serves to clarify the ability of the
12 Commissioner of Marine Resources to designate to the
13 deputy commissioner the authority to act for the
14 Department of Marine Resources respecting the admin-
15 istration of Title 12, section 6072.

16 Section 2 serves to clarify prior provisions con-
17 cerning 5-acre tract limitations. The Department of
18 Marine Resources has always interpreted the 5-acre
19 and 200-acre limitations as consistent provisions
20 and, therefore, has permitted persons to lease con-
21 tiguous 5-acre tracts, so long as the total acreage
22 held by the applicant on the coast of Maine does not
23 exceed 200 acres. This department practice best
24 serves the needs of the aquaculture industry, as well
25 as the needs of the public, in that contiguous tracts
26 enable economy of scale in research and aquaculture
27 projects, concentrating commercial activities in one
28 or a few, as opposed to many scattered coastal areas.

29 Sections 3 and 4 serve to clarify the role of the
30 advisory council in the adjudicatory process relating
31 to the administration of Title 12, section 6072.

32 Section 5 amends the commercial fishing license
33 by making it possible for a person to catch bait for
34 personal use without buying a license. This exemp-
35 tion was overlooked when the law revision took place
36 in 1979. It is consistent with other permitted ac-
37 tivities in this statute.

1 Sections 6 and 7 serve to clarify the type of
2 hook that may be used to fish for salmon. The addi-
3 tion of the word "pointed" makes it clear that
4 treble-pointed hooks are not allowed, thus making the
5 Department of Marine Resources' salmon fishing provi-
6 sions consistent with the Department of Inland Fish-
7 eries and Wildlife's laws, Title 12, section 7001,
8 subsection 11, and Atlantic sea run salmon regulation
9 1.03(C).

10 Section 8 amends Title 12, section 6621, which
11 was enacted to allow the holder of aquaculture leases
12 to handle and transplant shellfish during paralytic
13 shellfish poisoning closures. Since then, regula-
14 tions have been adopted that permit this activity and
15 this law is no longer needed.

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